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TREATIES AND OTHER INTERNATIONAL ACTS SERIES 9418

AGRICULTURAL COMMODITIES

Agreement Between the
UNITED STATES OF AMERICA
and SRI LANKA

Signed at Colombo February 22, 1979

with

Related Letter
Signed at Colombo February 15, 1979

NOTE BY THE DEPARTMENT OF STATE

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SRI LANKA

Agricultural Commodities

Agreement signed at Colombo February 22, 1979;
Entered into force February 22, 1979.
With related letter
Signed at Colombo February 15, 1979.

AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND THE
GOVERNMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA
FOR THE SALE OF AGRICULTURAL COMMODITIES UNDER THE
PUBLIC LAW 480, TITLE I[1] PROGRAM

The Government of the United States of America and the Government of the Democratic Socialist Republic of Sri Lanka agree to the sales of agricultural commodities specified below. This Agreement shall consist of the Preamble, Parts I and III, of the Title I Agreement signed March 25, 1975,[2] together with the following Part II:

Part II - PARTICULAR PROVISIONS

Item I. Commodity Table:

Commodity	Supply Period (U.S. Fiscal Year)	Approximate Maximum Quantity (Metric tons)	Maximum Export Market Value (Millions)
Wheat/Wheat Flour (Flour basis)	1979	90,000	$17.0

Item II. Payment Terms: (Convertible Local Currency Credit)

1. Initial Payment - 4 percent
2. Currency Use Payment - None
3. Number of Installment Payments - 31
4. Amount of Each Installment Payment - Approximately equal annual amounts
5. Due date of First Installment Payment - 10 years after date of last delivery of commodities in each calendar year
6. Initial Interest Rate - 2 percent
7. Continuing Interest Rate - 3 percent

Item III. Usual Marketing Table:

Commodity	Import Period (U.S. Fiscal Year)	Usual Marketing Requirements (Metric tons)
Wheat/Wheat Flour (Flour basis)	1979	188,000

[1] 68 Stat. 455; 7 U.S.C. § 1701 *et seq.*
[2] TIAS 8107; 26 UST 1245.

Item IV. Export Limitations:

A. The export limitation period shall be U.S. Fiscal Year 1979 or any subsequent U.S. Fiscal Year during which commodities financed under this Agreement are being imported or utilized.

B. For the purpose of Part I, Article III A4 of the Agreement, the commodities which may not be exported are: for wheat/wheat flour -- wheat, wheat flour, rolled wheat, semolina, farina, and bulgur (or the same product under a different name).

Item V. Self-Help Measures

A. In implementing these self-help measures, specific emphasis will be placed on contributing directly to development progress in poor rural areas and on enabling the poor to participate actively in increasing agricultural production through small farm agriculture.

B. The Government of the Democratic Socialist Republic of Sri Lanka shall undertake the following self-help measures in its effort to increase its food and agricultural production.

1. Expand and decentralize, on a regional basis, agricultural research to compliment food production oriented extension programs that will address the needs of small and medium size (1-5 acre plots) farmers, (including cropping systems and methods of tillage). Research efforts will focus on:

(A) Development of production technology designed to increase yields of food crops economically adaptable to small farm production; and

(B) Training of Sri Lanka personnel to carry out crop production research and disseminate information on the results to small farmers through extension programs.

2. Encourage participation of rural farming population in the decision-making process through increased reliance on cooperatives, agricultural service centers, and other district level organizations.

3. Develop information, statistical and analytical procedures for estimating foodgrain and other agricultural production forecasts and consumption requirements by:

(A) Placing particular emphasis on improving the gathering and compilation of statistical data and information as it relates to agriculture;

(B) Strengthening data gathering program for sub-sector studies, placing emphasis on small farmers, to evaluate methods of obtaining agricultural inputs, production trends, and utilization of small farm products; and

(C) Developing a data collection and analysis system which could be used to monitor and evaluate agricultural development activities, including self-help measures.

4. Expand and improve storage and warehouse facilities for rice, other foodgrains and food commodities, particularly those located at inland terminal locations, markets, villages and towns, and port areas so as to:

(A) Upgrade storage, handling and distribution of agricultural commodities;

(B) Improve the marketing and distribution of small farm production; and

(C) Reduce losses due to pests and spoilage.

5. Improve the coordination and scheduling of grain imports (under both concessional and commercial terms) with domestic production and the availability of storage.

6. Improve the availability of vital inputs, such as fertilizer, credit and seeds, needed to expand and/or improve small farm agriculture.

7. Expand irrigation and improve water management practices in new and existing lands.

8. Upgrade reforestation and dry land and watershed management programs.

Item VI. Economic Development Purposes for which Proceeds Accruing to Importing Country are to be Used:

A. The proceeds accruing to the importing country from the sales of the commodities financed under this Agreement will be used for financing the self-help measures set forth in Item V and for agricultural development objectives identified in the National Budget of the Government of the Democratic Socialist Republic of Sri Lanka, including the following: irrigation, land development, extension, marketing, input distribution, and population planning.

B. In the use of proceeds for these purposes emphasis will be placed on directly improving the lives of the poorest of the recipient country's people and their capacity to participate in the development of their country.

IN WITNESS WHEREOF, the respective representatives, duly authorized for the purpose, have signed the present Agreement. Done at Colombo this twenty-second day of February, 1979.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

W. Howard Wriggins
American Ambassador

FOR THE GOVERNMENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA:

Dr. W. M. Tilakaratne
Secretary
Ministry of Finance and Planning

[RELATED LETTER]

EMBASSY OF THE
UNITED STATES OF AMERICA
COLOMBO, SRI LANKA

FEBRUARY 15, 1979

Mr. S. VELAYUTHAM
Director
External Resources Division
Ministry of Planning and Economic Affairs
Ceylinco House – 2nd Floor
Colombo 1

DEAR MR. VELAYUTHAM:

This letter will constitute the agreed minutes of our negotiations on the Agreement between our Governments to be signed on February 21, 1979, for sales of agricultural commodities.

Discussions began with a general review of the provisions of Public Law 480 and of A.I.D.'s airgram AIDTO Circular A–487 dated July 4, 1974, the contents of which are incorporated herein by reference. It was further understood and agreed that:

1. Purchase authorizations issued under this Agreement will contain requirements that invitations for bids (IFBs) for both commodity and freight must be submitted to the Office of the General Sales Manager, U.S. Department of Agriculture (USDA), Washington, for approval prior to their release to prospective bidders. The primary purpose of this requirement is to enable the USDA to ensure that invitations do not contain terms or conditions which may be in conflict with purchase authorization terms and P.L. 480 financing regulations. Prior review of invitations will also give the USDA specialists an opportunity to provide advice and assistance in assuring realistic commodity delivery schedules and maximum flexibility in matching the available shipping to the commodity contracts.
2. Purchases of food commodities under the Agreement must be made on the basis of IFB publicly advertised in the United States and on the basis of bid offerings which must conform to the IFB. Bid offerings must be received and publicly opened in the United States. All awards under IFBs must be consistent with open, competitive, and responsible bid procedures.
3. In making awards, the recipient country must normally accept the lowest FAS price offered in conformity with IFB specifications. However, if the buyer can demonstrate that an award at a higher FAS price, in combination with a lower freight cost, would result in the lowest landed cost, the USDA is prepared to allow an exception to this rule.

4. Commissions, fees, or other payments to any selling agent are prohibited in any purchase of commodities under the Agreement.
5. If the Government of Sri Lanka nominates a purchasing agent and/or shipping agent to procure commodities or arrange ocean transportation under the Agreement, the Government of Sri Lanka must notify the General Sales Manager, USDA, in writing of such nomination and provide along with the notification a copy of the proposed agency agreement. All purchasing and shipping agents must be approved by the General Sales Manager's office in accordance with new regulatory standards designed to eliminate certain potential conflicts of interest.
6. Purchase Authorizations will be issued under the Agreement only after the U.S. Secretary of Agriculture has determined under the Bellmon Amendment (Section 401 (B) and (2)) of P.L. 480 that: (i) adequate storage facilities are available in the recipient country at the time of exportation to prevent the spoilage or waste of the commodity, and (ii) the distribution of the commodity in the recipient country will not result in a substantial disincentive to domestic production in that country.
7. With regard to the determination of adequate storage facilities the Government of Sri Lanka will provide the Embassy with a statement with supporting analysis that adequate facilities are expected to be available to handle (including port facilities), store, and distribute the commodity provided under the Agreement during the proposed delivery periods without spoilage or waste. This information will have to be updated at a later date based on actual conditions (including port congestion) relevant to specific delivery periods prior to the issuance of each purchase authorization.
8. To assist the U.S. Secretary of Agriculture in making the necessary determinations, the Government of Sri Lanka will provide the Embassy with the following information at least three working days before signing the Agreement: (i) the type and grade of commodity to be purchased in accordance with official U.S. standards; (ii) the proposed contracting and delivery schedules; (iii) the names and addresses of banks, both U.S. and foreign, which will be handling financial operations; and (iv) assurance that appropriate authorities of the Government of Sri Lanka are prepared to make immediate transfers of funds to cover ocean freight costs and to meet the initial payment requirement related to contracts to be concluded pursuant to the Agreement. As a general rule, purchase authorizations will not be issued until the USDA has received this information by cable from the Embassy.
9. Arrangements have also been made by the Government of Sri Lanka to relay to the Sri Lanka Embassy in Washington

all instructions, information, and authority necessary to enable timely implementation of the Agreement, including: (i) commodity specifications, (ii) contracting and delivery periods, (iii) the names and addresses of U.S. and foreign banks handling transactions (e.g. letters of credit for commodity and freight), (iv) authority to request and sign purchase authorizations and other necessary documents, (v) complete instructions, information and authority regarding arrangements for purchasing commodities and contracting for freight (including the appointment of purchasing and/or shipping agents if applicable), and (vi) instructions to contact the Programs Operations Division, Office of the General Sales Manager, USDA, regarding the foregoing.

10. The Government of Sri Lanka was informed that commodity suppliers in the United States are refusing to load vessels when acceptable letters of credit for both commodity and freight suppliers are not available at the time of loading. This has resulted in costly claims by vessel owners for demurrage and/or detention of claims and carrying charges by commodity suppliers. Delays in opening letters of credit and settlement of the final ten percent of freight will also result in higher commodity prices and freight rates. As a consequence, letters of credit must be opened for 100 percent of the ocean freight charges in favor of the supplier of ocean transportation prior to the vessel's presentation for loading.
11. The Government of Sri Lanka will take appropriate measures to ensure that operable letters of credit for both commodity and freight will be opened, and confirmed by designated U.S. banks immediately after contracting under each Purchase Authorization is concluded, and before vessels arrive at loading ports.
12. The usual marketing requirement (UMR) in Part II, Item III, of the Agreement is 188,000 metric tons of wheat flour (or 250,000 metric tons of wheat on a grain equivalent basis) for import through normal commercial channels during U.S. Fiscal Year 1979. This UMR is the same as that contained in the Title I Agreement signed January 9, 1978 [1] and is substantially below the five year average of commercial imports (FY 1973 to 1977). The Government of the United States would expect future agreements to reflect increases in the UMR until it returns to the average of commercial imports.
13. Taking into account Sri Lanka's current economic and financial situation, Part II, Item II, of the Agreement provides for an initial payment of 4 percent, rather than the normally required 5 percent, and no currency use payment.
14. Particular attention was drawn to Part I, Article I (E), of the Agreement signed March 25, 1975, which provides that the

[1] TIAS 9052; 29 UST.

export market value specified in Part II may not be exceeded. This means that if commodity prices increase over those used in announcing the quantity market value indicated in Part II of the Agreement, the quantity to be financed under the Agreement will be less than the approximate maximum quantity set forth in Part II. Should commodity prices decrease, however, the quantity of commodity to be financed may be limited to that specified in Part II. However, should prices drop sufficiently, the Government of the United States foresees no problem in the purchase of up to 100,000 metric tons of wheat flour under this Agreement.

15. Recent legislation affecting Section 106 (B) and 109 (A) of PL 480 requires: (i) specific emphasis on implementation of self-help measures so as to contribute directly to development progress in increasing agricultural production through small farm agriculture; and (ii) use of proceeds for purposes which directly improve the lives of the poorest of the recipient country's people and their capacity to participate in the development of their country. These requirements are reflected in the Agreement text Part II, Items V and VI.
16. Reporting is an essential part of the P.L. 480, Title I Program. Discussions were held with the Government of Sri Lanka about its responsibilities for submission of timely reports on compliance, shipping and arrival information (ADP sheets), self-help and use of sales proceeds, as required under Part I, Article III (D), of the Agreement signed March 25, 1975.
17. For identification and publicity of the commodities to be received, in accordance with Part I, Article III (I), of the March 25, 1975, Agreement, the Government of Sri Lanka will insure insofar as practicable that food commodities are marked or identified at point of distribution or sale as being provided on a concessional basis to the Government of Sri Lanka by the people of the United States. In addition, the Government of Sri Lanka will publicize to the people of Sri Lanka, by public media and other means, including newspapers and radio, that the commodities are being provided on a concessional basis through the friendship of the American people. Quarterly reports on measures taken to implement these requirements will be submitted on the same schedule as other quarterly reporting required under the Agreement.

Please sign and return to me the attached copy of this letter to serve as a record of the matters on which we have agreed during negotiations of the new P.L. 480, Title I Sales Agreement.

Sincerely yours,

JOHN P SPILLANE

John P. Spillane
First Secretary
Economic/Commercial

I concur in the above statements

S VELAYUTHAM

S. Velayutham, *Director*
Division of External Resources
Ministry of Planning and
Economic Affairs

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